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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,659	11/15/2000	Daniel Geier	7.035	3551
23598	7590	07/01/2004	EXAMINER	
BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ, S.C. 250 E. WISCONSIN AVENUE SUITE 1030 MILWAUKEE, WI 53202			SINGH, SUNIL	
		ART UNIT		PAPER NUMBER
		3673		

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/713,659	GEIER ET AL.
	Examiner Sunil Singh	Art Unit 3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address.
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 and 25-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 2-4, 7, 12-23 and 25-30 is/are allowed.
- 6) Claim(s) 1, 5, 6, 8, 9 and 31 is/are rejected.
- 7) Claim(s) 10 and 11 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 5/13/2003.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Upon considering IDS filed 5/13/2003, the examiner has withdrawn the allowability of claims 1,5,6,8,9 and 31 as previously indicated on the notice of allowance mailed 2/25/2003.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,5,9,31 are rejected under 35 U.S.C. 102(b) as being anticipated by French document (1567198).

French document '198 discloses an exciter assembly comprising an exciter housing (10); an exciter shaft (12) rotatably journaled in said exciter housing; a fixed eccentric weight (18) rotationally fixed to said exciter shaft; a free swinging eccentric weight (22,24) mounted on said exciter shaft so as to rotate with respect to said exciter shaft between a first angular position in which the eccentricity of said free swinging weight adds to the eccentricity of said fixed weight and a second angular position in which the eccentricity of said free swinging weight detracts from the eccentricity of said fixed weight (see Figs. 2,4), wherein said free swinging weight is mounted on said exciter shaft so as to be restrained from substantial axial movement along said exciter shaft without the use of any retaining structure that is fixed to said free swinging weight. The free weight is restrained from substantial axial movement along said exciter shaft solely by

Art Unit: 3673

said fixed eccentric weight (18) and another component of said exciter assembly (this is considered as the shaded area between members 14 & 22 and 16 & 24).

(Re claim 5), the fixed weight is formed integrally with said exciter shaft. Furthermore, it should be noted that it has been held that the term "integral" is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973).

With regards to claim 9 (see Figs. 5-8).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over French document '198 in view of Century (U.S. Pat. 3561336).

French document '198 discloses the invention substantially as claimed. However, French document '198 is silent about his motor having a rotary output shaft which is coupled to the exciter shaft and which is co-axial with the exciter shaft, the motor output shaft being splined directly to the exciter shaft. Century teaches having a motor (70) having a rotary output shaft (80) which is coupled to an exciter shaft (47) and which is co-axial with the exciter shaft, the motor output shaft being splined (81,61) directly to the exciter shaft (see Fig. 2). It would have been considered obvious to one

Art Unit: 3673

of ordinary skill in the art to modify French document '198 by substituting the motor drive means as taught by Century for the motor drive means of French document '198 since it would be an obvious design choice to substitute equivalent parts for performing equivalent function. It should be noted that such an arrangement allows for ample backlash and play.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over French document '198 in view of Salani or Polacek (US 4353261, 5082396). French document '198 discloses the invention substantially as claimed. However, it is silent about using his exciter assembly within a drum. Salani and Polacek both teach using exciter assemblies within a drum (see Figs. 1,2 and 8 respectively). It would have been considered obvious to one of ordinary skill in the art to modify French document '198 to include a drum as taught by either Salani or Polacek since such a modification would provide an easy to assemble vibratory roller.

Allowable Subject Matter

6. Claims 10, 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 2-4, 7, 12-23, 25-30 are allowed.

8. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

Art Unit: 3673

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (703) 308-4024.

The examiner can normally be reached on Monday through Friday 8:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunil Singh



Patent Examiner
Art Unit 3673

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6/4/2004